

### **THE AMENDMENT**

Claims 1-10, 14-16, 18-23 and 57-66 are in the application. Claims 1-2, 9-10, 15-16 and 22-23 have been amended. Claims 11-13 and 17 have been cancelled. Claims 24-56 were previously withdrawn. Claims 57-66 are new.

Claims 2 and 9 have been amended to correct typographical and spelling errors that are apparent from their context (see below regarding Claim Objections).

Independent claim 1 has been amended to include a display device having a “band.” Dependent claims 2, 9-10, 15-16 and 22-23 have been amended to provide proper antecedent basis with newly amended claim 1. Support for the display device comprising a band is found in Fig 2(b) and the discussion at ¶[46] (p 8), ¶[76]-[77] (pp 14-15) and ¶[80] (p 16) of the original Specification.

Applicants respectfully submit that the Amendment does not introduce new matter and request that the Amendment be entered.

### **REMARKS**

#### **1. A Brief Review of One Embodiment of Applicants’ Invention**

In one embodiment of Applicants’ invention, a gaming device includes a housing with several walls that define a cavity. A moveable indicator is associated with the housing. A moveable indicator actuator is configured to move the moveable indicator in a linear manner along a first axis. A display device is associated with the housing. The display device includes a band displaying indicia. A display device actuator is configured to move the band in a linear manner along a second axis. The second axis is orthogonal to the first axis. A controller is in

communication with the display device actuator and the moveable indicator actuator. The controller determines a game outcome and directs movement of the moveable indicator and the band.

## **2. Claim Objections**

The Office objected to claims 2 and 9 due to several informalities. Claims 2 and 9 have been amended to more clearly recite the invention. Withdrawal of the claim objection is respectfully requested.

## **3. Rejection of Claims 1-6, 8, 9, 11, 13-15 and 17-21 under 35 U.S.C. §102(e) over Nordman (U.S. Patent No. 6,712,694).**

Claims 1-6, 8, 9, 11, 13-15 and 17-21 stand rejected as being anticipated by Nordman. Claims 11, 13 and 17 have been canceled. Applicants respectfully traverse this rejection.

Amended independent claim 1 and new claims 57 and 62 recite a band that is adapted to move along a second axis and that displays a plurality of indicia. The Office acknowledges that Nordman “fails to teach a display with a belt between rollers” (page 5, item 8 of the Office Action). Nordman does not teach, disclose or suggest the use of a band as recited in independent claims 1, 57 and 62. Accordingly, Applicants submit that independent claim 1, new independent claims 57 and 62, and the corresponding dependent claims 2-10, 14-16, 18-23, 58-61 and 63-66, respectively, are not anticipated since Nordman does not teach all the limitations of Applicants’ claimed invention. Applicants respectfully request withdrawal of the rejection of claims 1-6, 8, 9, 14-15 and 18-21 under 35 USC §102(e).

**4. Rejection of Claims 7, 12, 22 and 23 under 35 U.S.C. §103(a) over Nordman (U.S. Patent No. 6,712,694) as applied to claim 1.**

Claims 7, 12, 22 and 23 stand rejected as being obvious over Nordman. Claim 12 has been cancelled. Applicants respectfully traverse this rejection.

Based on the discussion presented above regarding independent claim 1 (Section 3), from which claims 7, 22 and 23 are dependent, Applicant respectfully submits that a *prima facie* case of obviousness has not been established since "... all the claim limitations must be taught or suggested by the prior art ..." (see MPEP 2143.03). Therefore, Applicants respectfully request withdrawal of the rejection under 35 USC §103(a).

**5. Rejection of Claims 10, 16 and 17 under 35 U.S.C. §103(a) over Nordman (U.S. Patent No. 6,712,694) in view of Silva et al. (U.S. Patent Publication No. 2004/0171423).**

Claims 10, 16 and 17 stand rejected as being obvious over Nordman. Claim 17 has been cancelled. Applicants respectfully traverse this rejection.

In addition to the previous discussion (Section 3 above) regarding the deficiencies of Nordman, Applicants rely on the enclosed declaration under 37 C.F.R §1.131 to antedate the reference to Silva et al. since the present invention was conceived and reduced to practice before the filing date of Silva.

Declaration under 37 C.F.R. §1.131

Silva et al. appears to have a filing date of February 28, 2003. The present application claims priority to U.S. provisional patent application serial number 60/458,764, filed on March 28, 2003. The enclosed declaration under 37 C.F.R §1.131 states that the present invention was conceived prior to February 28, 2003 and was diligently reduced to practice by the inventors until the filing of the present patent application on March 28, 2003.

Exhibits A, B and C accompany the declaration and are copies of attorney time entries and correspondence and are factual evidence of the inventors' date of invention and diligence prior to February 28, 2003.

Exhibit A includes two (2) true copies of attorney time entries showing activities for the preparation of a patent application for the present invention. All of the original dates and the activities performed on those dates are shown in exhibit A. One of the Exhibit A time entries is dated prior to February 28, 2003.

Exhibit B is a redacted copy of a letter from the patent attorney in the present application. Exhibit B summarizes a meeting that occurred on February 27, 2003. Exhibit B shows conception of a gaming device in accordance with the present invention that uses a moveable indicator and a flat reel or band that is entitled, "Vacation". The activities referenced in Exhibit B occurred prior to February 28, 2003.

Exhibit C is a true copy of attorney time entries showing activities for the preparation of a patent application for the present invention. All of the original dates and the activities performed on those dates are shown in exhibit C. Exhibit C is evidence of the patent application for the present invention being diligently worked on during the period between the effective filing date of

the reference to Silva of February 28, 2003 and the filing of the present patent application on March 28, 2003.

Since the Applicants' date of invention and reduction to practice is prior to February 28, 2003, the reference to Silva cannot be used as a reference in the present application. Applicants respectfully request that the cited reference to Silva be withdrawn and that the 35 U.S.C. §103(a) rejection be withdrawn.

### **CONCLUSION**

For all of the above reasons, the Applicants submit that the present application is in condition for allowance. If the Examiner has any questions regarding the application or amendment, the Examiner is encouraged to call the Applicants' attorney, Ian F. Burns, at (775) 826-6160.

Respectfully submitted,

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